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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) No. CR 00-40015 DLJ  
12 )  
Plaintiff, )  
13 vs. ) **STIPULATION REGARDING**  
 ) **SENTENCE REDUCTION UNDER**  
14 VANDALE SIMS, ) **U.S.S.G. AMENDMENT 706 (AS**  
 ) **AMENDED BY 711); ORDER**  
15 Defendant. )  
16 \_\_\_\_\_ )  
17

18 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties acting  
19 through their respective counsel, that:

- 20 1. The Court has indicated that it is making its own motion for a modification of the  
21 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).  
22 2. Defendant's original guideline calculation was as follows:  
23 Total Offense Level: 29  
24 Criminal History Category: III  
25 Guideline Range: 108-135  
26 Mandatory Minimum: 60 months

- 1 3. Defendant was sentenced to 121 months imprisonment on May 9, 2003.
- 2 4. Defendant's current projected release date is December 12, 2009.
- 3 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
- 4 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
- 5 Guidelines Manual.
- 6 6. Defendant's revised guideline calculation is as follows:  
7 Total Offense Level: 27  
8 Criminal History Category: III  
9 Guideline Range: 87-108
- 10 7. The parties have no reason to dispute the facts in the Reduction of Sentence Report
- 11 submitted to the Court by the probation office.
- 12 8. Based upon the foregoing, the parties hereby stipulate that a sentence of 97 months is
- 13 appropriate in this matter.
- 14 9. The parties further stipulate that all other aspects of the original judgment order including
- 15 the length of term of supervised release, all conditions of supervision, fines, restitution,
- 16 and special assessment remain as previously imposed.
- 17 10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant
- 18 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220
- 19 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*,
- 20 472 F.3d 1167 (9<sup>th</sup> Cir. 2007).
- 21 11. Defendant waives his right to appeal the district court's sentence.
- 22 12. Accordingly, the parties agree and stipulate that an amended judgement may be entered
- 23 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and
- 24 USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*
- 25 *Guidelines Manual*.
- 26

1 IT IS SO STIPULATED:

2 /S/

3 Date: May 9, 2008

4 \_\_\_\_\_  
Rebecca Sullivan Silbert  
Counsel for Vandale Sims

5 /S/

6 Date: May 9, 2008

7 \_\_\_\_\_  
Thomas Mazzucco  
Assistant United States Attorney

8 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
9 "conformed" signature (/S/) within this e-filed document.

10  
11  
12 **ORDER**

13  
14 Based on the above stipulation, the Court hereby ORDERS the following:

- 15 1. The Court is making its own motion for a modification of the defendant's sentence  
16 pursuant to 18 U.S.C. § 3582(c)(2);
- 17 2. **The original Judgment in the above-captioned case is AMENDED to impose a term**  
18 **of imprisonment of 97 months.** All other aspects of the original judgment, including  
19 the length of term of supervised release, all conditions of supervision, fines, restitution,  
20 and special assessment remain as previously imposed.
- 21 3. Defendant's original guideline calculation was as follows:
- 22 Total Offense Level: 29
- 23 Criminal History Category: III
- 24 Guideline Range: 108-135
- 25 Mandatory Minimum: 60 months
- 26 Sentence Imposed: 121 months

1 4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §  
2 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission  
3 Guidelines Manual;

4 5. Defendant's revised guideline calculation is as follows:

5 Total Offense Level: 27

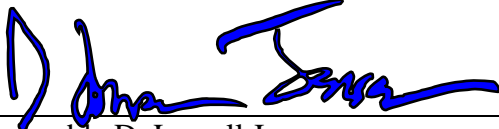
6 Criminal History Category: III

7 Guideline Range: 87-108

8 6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,  
9 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v.*  
10 *United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9<sup>th</sup> Cir.  
11 2007).

12 7. Defendant has waived his right to appeal the sentence imposed by this Order.

13  
14  
15 Date: May 15, 2008

  
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Honorable D. Lowell Jensen  
Judge, United States District Court